

1 BILL NO. S-84-02-38

2 SPECIAL ORDINANCE NO. S-14-84

3 AN ORDINANCE authorizing the City
4 of Fort Wayne, Indiana to defend
and indemnify members of the Common
5 Council with respect to lawsuits
brought against them in the per-
formance of their legislative duties.

7 WHEREAS, City governments and elected officials in
8 general are more frequently the subjects of litigation;

9 WHEREAS, it is a fundamental principal of Indiana law
10 that Common Council members are immune with regards to the dis-
11cretionary performance of their legislative duties;

12 WHEREAS, it is the policy of this City that members of
13 the Common Council be defended and indemnified by the City as to
14 lawsuits brought against members of the Common Council for the
15 discretionary performance of their legislative duties;

16 WHEREAS, such defense and indemnification of Council
17 members is a legitimate public purpose, consistent with Indiana
18 law, and necessary to ensure the proper, prompt, and unhindered
19 performance of Council members with respect to their legislative
20 responsibilities.

21 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
22 THE CITY OF FORT WAYNE, INDIANA:

23 SECTION 1. This Ordinance is passed pursuant to I.C.
24 36-1-3-2 which grants to this City all necessary powers needed
25 for the effective operation of City government. Furthermore,
26 this Ordinance is in no way a limitation of civil liability as
27 proscribed in I.C. 36-1-3-8, but rather, this Ordinance deals
28 with the defense and indemnification of Council members.

29 SECTION 2. It is and shall be the policy of the City of
30 Fort Wayne, Indiana, to defend and indemnify members of the Common
31 Council with respect to lawsuits brought against them that involve
32 the discretionary performance of legislative duties. The perfor-

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mance of legislative duties, for purposes herein, shall be those legislative duties, as performed from time to time, by Council members pursuant to Indiana law and/or ordinance or resolution of this City. Provided, however, defense and indemnification shall not be provided in those situations in which a Council member would have individual and/or personal liability as provided, from time to time, by Indiana law, whether same be statutory or case law.

11 SECTION 3. This Ordinance is necessary to ensure that
12 Council members may freely exercise their legislative responsi-
13 bilities, as charged to them, by the citizens of this community.

14 SECTION 4. That this Ordinance shall be in full force
15 and effect from and after its passage, and any and all necessary
16 approval by the Mayor. Furthermore, this Ordinance shall be
17 deemed to be retroactive so as to apply to any presently pending
18 lawsuit filed against any Council member and that has resulted
19 from the performance of a Council member's legislative duties.
20 This Ordinance shall also apply to any lawsuits brought against
21 any former Council members, if the lawsuit involves such member's
22 performance of legislative duties while a member of Council.

Janet G. Brashaw
Councilmember

APPROVED AS TO FORM
AND LEGALITY

Bruce Q. Boxberger, City Attorney

Read the first time in full and on motion by Bradbury, seconded by I. G. G., and duly adopted, read the second time by title and referred to the Committee Regulation (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on , the day of , 19 , at o'clock .M., E.S.

DATE: 2-14-84

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Bradbury, seconded by Gia Quinta, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

| | <u>AYES</u> | <u>NAYS</u> | <u>ABSTAINED</u> | <u>ABSENT</u> | <u>TO-WIT:</u> |
|--------------------|-------------|---------------|------------------|---------------|----------------|
| <u>TOTAL VOTES</u> | <u>9</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>BRADBURY</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>BURNS</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>EISBART</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>GiaQUINTA</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>HENRY</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>REDD</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>SCHMIDT</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>STIER</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| <u>TALARICO</u> | <u>✓</u> | <u> </u> | <u> </u> | <u> </u> | <u> </u> |

DATE: Feb 28, 1984

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. S-14-84
on the 28th day of February, 1984,

ATTEST:

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

(SEAL)

Ray A. Elmer
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana,
on the 29th day of February, 1984,
at the hour of 11:30 o'clock .M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 1st day of March,
1984, at the hour of 1 o'clock P.M., E.S.T.

Win Moses Jr.
WIN MOSES, JR., MAYOR

BILL NO. S-84-02-38

REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS REFERRED AN ORDINANCE authorizing the City of Fort Wayne, Indiana to defend and indemnify members of the Common Council with respect to lawsuits brought against them in the performance of their legislative duties

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE do PASS.

JANET G. BRADBURY, CHAIRWOMAN

Janet G. Bradbury

SAMUEL J. TALARICO, VICE CHAIRMAN

Samuel J. Talarico

CHARLES B. REDD

Charles B. Reed

MARK E. GIAQUINTA

Mark E. Giacinta

JAMES S. STIER

CONCURRED IN 2-28-84
SANDRA E. KENNEDY, CITY CLERK

Admn. Aprr. _____
~~for City Council
see attached~~DIGEST SHEETTITLE OF ORDINANCE Special Ordinance J-84-02-38DEPARTMENT REQUESTING ORDINANCE Law Department

SYNOPSIS OF ORDINANCE An Ordinance authorizing the City of Fort Wayne, Indiana to defend and indemnify members of the Common Council with respect to lawsuits brought against them in the performance of their legislative duties.

EFFECT OF PASSAGE Representation for Common Council members against any lawsuits presently pending or that might arise in the future.

EFFECT OF NON-PASSAGE Opposite of the above.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) _____